

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

IN RE:

CHARLES E. WALKER,

DEBTOR

DEBRA A. IRVIN,

PLAINTIFF,

v.

**GREEN WISE HOMES, LLC,
CHARLES E. WALKER, JON PAUL
JOHNSON, JULIE COONE, JAMES
BRETT, and NATIONWIDE
INVESTMENTS LLC,
DEFENDANTS.**

CASE NO.: 3:16-BK-03304

CHAPTER 11

JUDGE MASHBURN

Adv. Proc. No. 3:19-ap-90103

**DEFENDANT NATIONWIDE INVESTMENTS LLC'S MOTION TO
DISMISS PURSUANT TO RULE 7012 OF THE FEDERAL BANKRUPTCY
RULES AND RULE 12(B)(6) OF THE FEDERAL RULES OF CIVIL
PROCEDURE**

* * * * *

COMES NOW, Nationwide Investments, LLC, Defendant, by and through counsel, and moves this Court, pursuant to Federal Bankruptcy Rule 7012 and the Federal Rules of Civil Procedure, Rule 12(B)(6), to Dismiss the Defendant from the above caption case for failure to state a claim for which relief can be granted for the following reasons:

1. The Complaint filed seeks relief against the Defendant in the amount of \$825,000, a prejudgment attachment, attorney fees, and other remedies not listed that may be “equitable and proper.”

2. The Complaint fails to state a single cause of action against the Defendant. The Plaintiff lists the following in the Complaint: Count I: Fraud; Count II: Liability Pursuant to Tennessee Code § 66-22-113; Count III: Unjust Enrichment; Count IV: Civil Conspiracy; Count V: Fraudulent Transfer of Assets. However, the Complaint is devoid of any allegations against the Defendant that would entitle the Plaintiff to any recovery against the Defendant.

3. Despite the Complaint’s facial deficiencies, any potential claim or claim is barred by the Statute of Limitations in Tennessee Code Annotated § 28-3-105 which would have expired, at the latest, on November 24, 2017. Exhibit 5 to Plaintiff’s Complaint is the Deed to 1125 Sunnymeade Drive, Nashville, TN, 37216, which was recorded on November 24, 2014, in the Davidson County Register of Deeds. Notice is given to all the world when the instrument is recorded in the Register of Deeds Office. *Haiser v. McClung*, No. E2017-00741-COA-R3-CV, 2018 Tenn. App. LEXIS 509, at *21 (Ct. App. Aug. 29, 2018).

4. A motion to dismiss for failure to state a claim may properly raise the expiration of the statute of limitations. *Davis v. Grange Mut. Cas. Grp.*, No. M2016-02239-COA-R3-CV, 2017 Tenn. App. LEXIS 646, at *5 (Ct. App. Sep. 28, 2017); “A defendant may raise a statute of limitations defense in the context of a Rule 12(b)(6) motion to dismiss.” *Reid v. Baker*, 499 F. App’x 520, 524 (6th Cir. 2012).

5. Nationwide Investments does consent to the entry of final orders or judgment by the bankruptcy court.

Date: May 14, 2019

Respectfully submitted,

s/Charles E. Walker -
Charles E. Walker, BPR No. 021277
WOODBINE LEGAL PC
69 Thompson Lane
Nashville, Tennessee 37211
o: 615-367-5111 | f: 615-383-1154
E-Mail: charles@woodbinelegal.com
Attorney for Green Wise Homes, LLC

CERTIFICATE OF SERVICE:

I hereby certify that on May 14, 2019, I served the following parties by U.S.

Mail:

Eugene N. Bulso, Jr.
Paul J. Krog
Leader, Bulso & Nolan PLC
414 Union Street, Suite 1740
Nashville, TN 37219
615-780-4100
615-780-4118
gbulso@leaderbulso.com
pkrog@leaderbulso.com
Attorneys for Plaintiff

Charles E. Walker
Woodbine Legal PC
69 Thompson Ln
Nashville, TN 37211
615-367-5111
615-383-1154
charles@woodbinelegal.com
Pro Se Defendant

Jon Johnson
69 Thompson Ln
Nashville, TN 37211
Pro Se Defendant

Charles E. Walker
Woodbine Legal PC
69 Thompson Ln
Nashville, TN 37211
615-367-5111
615-383-1154
charles@woodbinelegal.com
Attorney for Green Wise Homes, LLC

s/Charles E. Walker _____
Charles E. Walker, BPR No. 021277